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**DISCUSSION:** The approval of the employment-based immigrant visa petition was revoked by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a CEW collector & recycler. It seeks to employ the beneficiary permanently in the United States as a market research analyst pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2). As required by statute, a labor certification accompanied the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition and that the beneficiary did not satisfy the minimum level of education stated on the labor certification. The director denied the petition accordingly.

In a Notice of Intent to Dismiss (NOID) dated April 24, 2012, the AAO requested evidence to establish that the petitioning business in this matter, ARC International Corp., was still an active business in California and that the petitioner has the ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition and continuing up to the present.<sup>1</sup> Specifically, the petitioner was instructed to submit tax returns or audited financial statements for the petitioner for 2007, 2008, 2009, 2010, and 2011 and Forms W-2 or 1099 (if any) for the beneficiary for 2007, 2008, 2009, 2010, and 2011.

This office allowed the petitioner 30 days in which to respond to the NOID. In the NOID, the AAO specifically alerted the petitioner that failure to respond to the NOID could result in dismissal of the appeal. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. *See* 8 C.F.R. § 103.2(b)(14). More than 30 days have passed and the petitioner has failed to respond with proof that ARC International Corp. was an active business in California and that it has the ability to pay the beneficiary the proffered wage.

Thus, the appeal will be dismissed as abandoned. *See also* 8 C.F.R. § 103.2(b)(13).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> The AAO conducts appellate review on a *de novo* basis. The AAO's *de novo* authority is well recognized by the federal courts. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).